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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,925	04/12/2004	Xiabin Jing	4866-0101PUS1	2121

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EXAMINER

GHERBI, SUZETTE JAIME J

ART UNIT PAPER NUMBER

3738

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,925

Applicant(s)

JING ET AL.

Examiner

Suzette J Gherbi

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-11 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 9 recites the limitation "wherein the length of larynx segmentum".; "of the concave part" and "the convex part" There is insufficient antecedent basis for this limitation in the claim.

4. Claim 10 recites the limitation "the outer wall of left and right arm". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over A. Bowen 2,127,903 in view of Datta et al. 2003/0144730. Bowen discloses the invention as claimed noting figures 1-7a comprising; A biodegradable common bile duct stent; wherein the stent is thin; wherein various parts (5-6 collars) of the stent are 1-3 times of the inner diameters of the corresponding parts of the common bile duct; wherein the stent can be manufactured and tailored to fit varying lumens (col. 4, lines 39-43). However Bowen does not specify that the biodegradable material is polymeric with the inclusion of radiopaque components. Datta et al. teaches that stent for use in the biliary tract [0002] has been known to be manufactured from polymeric biodegradable materials [0006; 0015; 0016]; having lengths from between 10mm-100mm and widths/diameters from between 2mm-25mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize biodegradable polymeric materials because there would have been less of a chance of rejection from the use of degradable animal tissue; it would have been obvious to utilize a radiopaque component in order for the physical to track/locate/monitor the device after implantation.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bowen in view of Stinson and further in view Hyodoh et al. 2003/0149475. Bowen and Stinson have been disclosed above however they do not specify the methods of manufacture. Hyodoh et al. teaches the manufacture of biodegradable stents with radiopaque

components through the methods of mixing or soubilizing polymers and extrusion [0216]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize these methods in order to provide an equal distribution of al the materials used to manufacture a flexible thin implant. It is also obvious to polish the device after manufacture to rid it of any fragments and/or rough surfaces.

Allowable Subject Matter

8. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johlin, Jr. 6,132,471; Kaplan 5,342,348; Sahota 2003/0181973; Sequin et al. 2003/0139796 ; all show related material.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzette J. Jackson whose work schedule is Monday-Friday 9-6:30 off every other Friday and whose telephone number is 571-272-4751.

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11. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

12. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-

0858.


Suzette J-J Gherbi

29 April 2005.